UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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In the Matter of:

LEHMAN BROTHERS HOLDINGS INC., et al.,

Case No.

Debtors. 08-13555(JMP)

- -x

LEHMAN BROTHERS INC.,

Case No.

Debtor. 08-01420(JMP) (SIPA)

- -x

U.S. Bankruptcy Court

One Bowling Green

New York, New York

August 17, 2011

10:04 AM

B E F O R E:

HON. JAMES M. PECK

U.S. BANKRUPTCY JUDGE

MOTION of Lehman Brothers Holdings Inc. and Lehman Commercial Paper Inc. for Authority (I) to Create Two Auditable Credit-Worthy Guarantors, (II) to Contribute $50 Million to Each Such Entity if Necessary [Docket No. 18793]

MOTION of Lehman Brothers Holdings Inc. and Lehman Commercial Paper Inc. Pursuant to Section 363 of the Bankruptcy Code for Authority to Sell Interest in Rosslyn Syndication Partners JV LP [Docket No. 18794]

NOTICE of Presentment of Stipulation, Agreement and Order Between Lehman Commercial Paper Inc. and Piper Jaffray & Co. Regarding Settlement of Claims and Turnover of Certain Shares [Docket No. 19026]

MOTION of Debtors for Approval of a Settlement and Compromise Among Lehman Brothers Holdings Inc., Lehman Commercial paper Inc. and State Street bank and trust Company [Docket No. 18542]

DEBTORS' Motion for Authorization to (i) Enter into an Asset Management Agreement for the Management of the Debtors' Commercial Loan Portfolio and ii) Sell Commercial Loans to Special Purpose Entities in Connection with the Issuance of Collateralized Loan Obligations [Docket No. 18810]

MOTION for an Order Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedures Approving Complimentary Settlement Agreements Between the Trustee and (I) Bank Leumi Le-Israel B.M. and (II) Israel Discount Bank Ltd. [LBI Docket No. 4441]

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P R O C E E D I N G S

THE COURT: Be seated, please. Good morning. Mr. Perez.

MR. PEREZ: Good morning, Your Honor. Alfredo Perez on behalf of the debtors. Your Honor, there are six matters on the agenda for this morning. I'm handling the first two; Ms. Marcus, the next three; and then Mr. Margolin, the last one.

The first matter, Your Honor, is our motion to capitalize two creditworthy guarantors. In connection with our real estate assets, we are foreclosing on several properties and need, in essence, to provide a guarantee, primarily, you know, carveout guarantee for bad boy acts. We do not have any solvent entity for which we could provide an audit, which is the requirement of most lenders that you have an auditable entity. So we're going to establish two new corporations, one under LCPI, one under LBHI, capitalize them to be able to use them as the creditworthy guarantor.

Your Honor, under the cash management order, we could have advanced monies to these entities, but then that would have resulted in us having to take back a note and a deed of trust for whatever assets they have. So it didn't really serve the function of having -- creating net worth in these entities to be able to provide what amounts to bad boy guarantees.

Mr. Chastain has filed a declaration going through the business purpose for this. There are two circumstances

currently in which that apply and there are approximately another nineteen which it could apply. Not necessarily will, but there are situations where we are either contemplating a foreclosure or contemplating a consensual transaction where we receive the equity interest which might result in the need to do that.

Your Honor, we have not received any objections and the committee has filed a statement in support.

THE COURT: I'm certainly prepared to approve it. It's unopposed and I've read the papers and the supporting declaration.

One question I have is the duration of this parking of the funds. For how long is this to be a set-aside for the benefit of these transactions?

MR. PEREZ: Your Honor, that's the question that everyone has asked, so I'm not surprised that the Court would ask that. Your Honor, I think that the goal is obviously to dispose of these assets as quickly as possible. It's part of our -- pursuant to our plan, we are counting on these assets in order to make distributions to creditors. So while there is no specific sunset, you know, we think that these funds will be -- we will need these funds until we're able to dispose of the assets.

I mean, the plan currently on file basically contemplates a three-year liquidation process, so I would

imagine that it would be along those lines. But there is not specific sunset. But obviously we're mindful that to the extent that these entities are capitalized, the money is there. It's probably earning minimal amount and it's not available for distribution to the creditors. At -- you know, as we get further into the liquidation, it's going to be a cost benefit analysis to see whether -- well, it probably makes more sense to sell the asset and get the money out than it does to keep the asset.

THE COURT: Can you also describe the process that leads to, in effect, a doubling-down of the funds. I understand fifty million dollars will be going into each of the entities with the contingency of funding an additional fifty million dollars on an as-needed basis. It's not clear to me when that's needed.

MR. PEREZ: Your Honor, I think it would be in a situat -- I believe that each one of these guarantees is going to have to be negotiated kind of on an individual basis with the various lenders. And so we have a universe of twenty-one assets that this could apply to. If we're able to sell these assets before we even have to take title or we were in a position to dispose of the assets so we don't ever have to take that title, then obviously, there would not be call -- we would not be called upon to ever issue the guarantee. And I think it's in a situation, Your Honor, where we would have to --

where there are too many assets to support a fifty million dollar guarantee that a lender would require us to infuse additional money.

But the goal is to have the least amount of money there possible. We think fifty million dollars would do it, but it's conceivable that because of, you know, the twenty-one total assets of -- that could be subject to this, that it's conceivable we may need to include more money in the -- in one or the other entity. And it could be that one entity, the LCPI entity, may have the need for additional funds where the LPHI entity may not or vice versa, depending on where the assets are.

THE COURT: Okay. Any comments that any party has on this?

MR. ODONNELL: Your Honor --

THE COURT: No need to make a comment, but if you want to make one, that's fine.

MR. ODONNELL: Dennis O'Donnell of Milbank, Tweed. I think Mr. Perez has addressed all of your questions and the question we had initially. We were most focused on the structure of the entities, how the money was going in and how it would come out. I think there are no clear answers as to when it will come out, but we will be involved in the process in terms of approving any of the guarantees and the committee, you know, on behalf of the creditors, wants to see the assets

liquidated as quickly as efficiently possible and distributions made as soon as possible. So -- but we'll be involved, at least as long as we exist, with those decisions.

THE COURT: Okay. Fine. It's approved.

MR. PEREZ: Thank you, Your Honor.

Your Honor, the second motion we have is the motion to -- LBHI's motion to authorize it to consent to its -- one of its second or third tier subs affiliate, to enter into a transaction to sell the Rosslyn real estate properties. The Court is somewhat familiar with that because of the fact that in -- last year, we put in 206 million dollars. You know, that was a situation where it was somewhat unprecedented that we would come back in here and ask to take out what was really a very high cost get so that we would be able to market. And thank God we've -- our projections have panned out and we're here to sell this property and it's a very substantial increase from the investment that we made last year and a significant return for our position.

Your Honor, we conducted a process -- LBHI and the estate and its partners conducted a process where we hired Eastdil to market the properties. They came back with several potential purchasers. There were extensive negotiates and we ended up signing a deal with an affiliate of Goldman Sachs who basically leads a partnership of several investors. You know, the purchase price to the debtors is at least 385 million

dollars. There is a working capital adjustment which we hope will increase the amount that we receive in connection with our discussions with the ad-hoc group. We've agreed that once the price has been finalized and the closing and we -- and all of those accounts have been settled, we'll file a supplementary disclosure as to the actual purchase price that we received for the asset.

In addition, Your Honor, there is a limited guarantee that LCPI is issuing capped at fifteen million dollars as a result of several representations. It would be unlimited if there was fraud on behalf of LCPI, but not on behalf of the other vendors. The -- most of the focus of the discussions with the committee and with the other creditors have -- has really revolved around the process, whether this was an appropriate process. I think everybody was comfortable that the result achieved was a good result and I think we're very happy with the result that was achieved.

And, Your Honor, we recognize that this is probably not the usual process that you would normally employ in a bankruptcy context. Nevertheless, there were unique circumstances here that we think have made the process very robust, very transparent and appropriate under the circumstances. First, Your Honor, this is a building -- this set of assets, it's not a distressed real estate. I mean, we do have a seventy-eight percent economic interest; we don't

manage the building and we did have joint venture partners who had significant say in the matter. These assets are really terrific assets right outside of Washington, DC, Pentagon City, and that -- in that area.

Second, Your Honor, we did hire a nationally recognized real estate firm, Eastdil, who after many discussion with the committee about the process that they ran, I think was able to convince everyone that it was a fulsome process that was intended to achieve the maximum price.

And three, Your Honor, based on the purchase price that we achieved, we think that the process is a -- was a fulsome transparent process. We don't believe, Your Honor, that having made this -- having run the process and then having entered into some sort of a stalking horse agreement would have increased the price at all and could have been --created issues for us because of the rights of the joint venture partners, plus the fact that, but for the bankruptcy, this asset is really not a distressed asset. This is a -- this is a very good, very well performing asset, Your Honor.

We recognize that this is not the paradigm for motions to come, but I can't say that in the appropriate circumstances, we wouldn't come back to you under these types of circumstances. This is not something that we took lightly and it was the subject of many, many, many conversations and discussions. Not only with the committee, with individual

creditors, with Mr. Uzi (ph.), with his clients and everyone.

We did file an affidavit last night, Your Honor. I apologize -- or yesterday afternoon for Mr. Gupta, which basically kind of goes through the same rationale, but we would request that trio be ordered.

THE COURT: I read Mr. Gupta's declaration and I've also read the papers filed by the committee and by the ad-hoc group. On the issue of process, I noted that the papers filed in response made clear that their going along with this is not to be deemed their consent to the precedent of doing this without a robust public process which includes higher and better offers and the more traditional auctioning of assets that takes place in the bankruptcy setting.

I heard your statements as being consistent with the papers that I've read, although making clear that in unspecified proper circumstance, presumably with the consent of other parties in interest, that assets might be sold in the manner that was followed here in the case of the Rosslyn assets. I'm perfectly prepared to approve the transaction, notably because the creditor constituencies support the outcome if not the outcome that was followed and given that this is a good result and there are no objections, I approve it.

MR. PEREZ: Thank you, Your Honor.

MS. MARCUS: Good morning, Your Honor. Jacqueline Marcus from Weil, Gotshal & Manges on behalf of Lehman Brothers

Holdings, Inc. and its affiliated debtors.

Item number three on the agenda, Your Honor, is the debtors' notice of presentment of the stipulation settling the claim of Piper Jaffray & Company. The stipulation provides for a resolution and treatment of the claim of Piper Jaffray against Lehman Commercial Paper Inc. by the transfer of certain shares of Delta Airlines stock, as well as LCPI's acknowledgement that Piper Jaffray will have an allowed unsecured claim in the amount of $2,368,021.05.

The objection deadline for the stipulation was August 15th. Although no objections to the stipulation were filed, LCPI and Piper Jaffray have agreed to a minor modification in the form of the stipulation that was filed with the Court. Specifically, the changes are to paragraphs 7 and 8 of the stipulation and in essence, broaden the scope of the release granted to the debtors and their controlled affiliates and related parties by the Piper Jaffray parties. In order to make the releases mutual, the revised stipulation provides that the releases will be granted by the debtor parties to the Piper Jaffray parties.

Clean and blackline versions of the stipulation were filed on August 11th, 2011. The debtors have not received any objections or further inquiries since that date. In light of the change in the stipulation, we thought it would make sense to put the stipulation on today's agenda so that we might

respond to any questions that the Court might have. If the Court has no questions, then we'll submit the presentment package at the conclusion of the hearing.

THE COURT: I have no questions.

MS. MARCUS: Thank you, Your Honor.

THE COURT: And let me just inquire as to whether or not this is being treated as a out of the ordinary course notice of presentment because it was put on the agenda or whether or not you're expecting me to say I've read it and I approve it. Or don't you care?

MS. MARCUS: I'm not sure that I care, but I think I would call it out of the ordinary course. That's why we had it on the agenda, but we'll submit the package as we ordinarily would.

THE COURT: Fine. I'm treating it as a notice of presentment.

MS. MARCUS: Thank you, Your Honor.

Item number four on the agenda is the debtors' motion pursuant to Section 105(a) and Bankruptcy Rule 9019 for approval of a settlement and compromise among Lehman Brothers Holdings, Inc, Lehman Commercial Paper, Inc., and State Street Bank and Trust Company. Yesterday, we filed a declaration of Gregory Chastain of Alvarez & Marsal in support of the motion and Mr. Chastain is present in court today.

The settlement resolves claims filed against LBHI and

LCPI by State Street relating to a 1996 ISDA Master Repurchase Agreement dated as of May 1, 2007. State Street filed claim against LBHI and LCPI in the amount of not less than 425 million. The settlement provides that State Street will have a general unsecured nonpriority claim against each of LBHI and LCPI in the amount of 400 million. The settlement agreement further provides that the adversary proceeding commenced by State Street will be withdrawn with prejudice and provides additional consideration to LCPI by permitting LCPI to either purchase a loan described in the motion as the ProLogis loan for sixty-seven and a half million in cash plus unpaid interest or to cause the borrower to discharge the loan in full by paying the sixty-seven and a half million dollars to State Street. The current outstanding amount of the loan is approximately eighty-three million dollars.

The debtors have determined that LCPI will purchase the ProLogis loan and the creditors' committee has approved the debtors' election. As indicated in the agenda, no objection to the State Street settlement had been filed with the Court, however the debtors and State Street have agreed to a modification of the proposed order. I have a blacklined (sic) order -- a blackline version of the proposed order for the Court, if I may approach?

THE COURT: Yes, please. Thank you.

MS. MARCUS: The changes, Your Honor, are on page 3 of

the blacklined order where we are inserting two new paragraphs. They read as follows, and I quote, "ordered that within ten days of the entry of this order, State Street shall withdraw with prejudice the adversary proceeding captioned State Street Bank and Trust Company v. Lehman Commercial Paper, Inc., adversary proceeding number 08-01743(JMP). And it further ordered that a settlement agreement does not release or compromise (A) any claim that the debtors may have to avoid any of the eight discrete transfers made by LCPI to State Street as set forth in the chart attached to this order as Exhibit 1, (B) any claim or defense that State Street may have or assert in response to the assertion of any such avoidance claims, and (C) any reinstatement claim in favor of State Street that would arise from such an avoidance claim. And it is further" -- the first quoted paragraph reflects the agreement of the parties that the adversary proceeding will be withdrawn in its entirety, notwithstanding the exception originally set forth in the settlement agreement regarding one particular line.

The second quoted paragraph reflects that State Street has confirmed that the release provision in the settlement agreement does not affect the avoidance claims that the debtors have alleged with respect to certain transfers made by --- to State Street during the preference period which are the subject of a tolling agreement between the parties. Both clarifications inure to the debtors' benefit.

For the reasons set forth in the motion and the Chastain declaration in support, the debtors believe that the settlement is fair and equitable and request that the Court approve the State Street settlement agreement and enter the revised proposed order.

THE COURT: I'm prepared to do that. This is an unopposed motion under Rule 9019 brought in the main case, but it also produces the favorable outcome of disposing of one of the older adversary proceedings on my docket. So I'm very pleased to approve the settlement.

MS. MARCUS: Thank you, Your Honor.

Item number five on the agenda is the debtors' motion pursuant to Sections 105 and 363 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedures 6004 for authorization to enter into asset management agreement for the management of the debtors' commercial loan portfolio and sell commercial loans to special purpose entities in connection with the issuance of collateralized loan obligations. The debtors have filed two declarations in support of the motion; the declaration of Douglas Lambert, a managing director of Alvarez & Marsal, and a declaration of David Dakota, a managing director of Lazard, the debtors' investment bank. Both Mr. Lambert and Mr. Dakota are present in court today.

As indicated on the agenda, statements in support of the motion have been filed by the creditors' committee as well

as the ad-hoc group. No objections to the motion have been filed. Even though this is an uncontested motion, given the size of the transaction and its importance, I'd like to summarize for the Court the transaction as well as the process used by the debtors to choose WCAS Fraser Sullivan Management LLC as the asset manager.

As confirmation of the debtors' plan approaches, the debtors have embarked on an effort to monetize their assets so they will be in a position to make meaningful distribution to creditors once the effective date of the plan occurs. As the Court is aware from prior motions, at the time of the commencement of the Chapter 11 cases, the debtors had a very larger commercial loan portfolio. Despite the economic turmoil that engulfed the national economy after the commencement date, the debtors' management elected not to sell off the loans in the commercial loan portfolio but rather to manage them in the ordinary course of business. In the nearly three years since the commencement date, the value of the commercial loan portfolio has increased considerably, while the actual size of the portfolio has decreased, due to payments by borrowers, refinancings and terminations of unfunded commitments that have occurred since then.

For approximately six months, the debtors have analyzed various ways in which value embedded in the commercial loan portfolio could be unlocked to enhance plan distributions.

As described in the motion and in the declaration of Mr. Lambert, the debtors determined that effectuation of one or more CLOs was the best way to monetize that value. Pursuant to the motion, the debtors request authority to enter into an asset management agreement with Fraser Sullivan.

Under the asset management agreement, Fraser Sullivan would, in the first instance, manage the commercial loan portfolio which as of July 15th, 2011, was comprised of 3.8 billion dollars of funded loans and 1.5 billion of unfunded commitments. The commercial loan portfolio is comprised of loans owned by debtors -- Lehman Brothers Holdings, Inc., Lehman Commercial paper, Inc., Lehman Brothers Special Financing, Inc., nondebtor LB I Group, Inc., and securitization trust RACERS 2007-A Spruce and Verano. Initially, the portfolio will not include commercial loans held by Woodlands Bank in the amount of approximately 450 million or real estate or private equity loans held by the debtors. But the asset management agreement does provide the debtors with the flexibility to deliver additional assets to Fraser Sullivan for management.

A schedule setting forth the managed assets is attached as Schedule A to the asset management agreement and was filed under seal pursuant to an order of this Court dated July 27th.

The expectation is that shortly after the effective

date of the agreement, Fraser Sullivan will work with the debtors to try to launch a series of CLOs. That will involve an analysis of market conditions as well as negotiations with arrangers and underwriters. The asset management agreement sets forth in Schedule C the expected terms of any CLO, although the final terms won't be established until those negotiations take place. However, the asset management agreement provides that the debtors retain the sole discretion without determine whether any CLO shall be launched.

In addition, during the period prior to the effective date of the plan, the debtors have agreed that the protocols that govern the debtors' interaction with the creditors' committee will continue to apply. Consequently, the committee's professionals will be involved in decision making regarding the timing, size and composition of any particular CLO. In consideration of the asset management services to be rendered, Fraser Sullivan will be entitled to a management fee in the amount of thirty basis points on the funded amount of the loans in the commercial loan portfolio as long as they are not CLO assets. Once loans are transferred to a CLO, then Fraser Sullivan's asset management fee will be paid by the CLO issuer. Schedule C contemplates that the management fee will be reduced at that time to twenty-five basis points.

In addition, under the asset management agreement, Fraser Sullivan is entitled to be reimbursed for certain

identified expenses. The asset management agreement also provides that Fraser Sullivan may be paid a success fee of up to five million dollars if the debtors, in their sole and absolutely discretion, determine that Fraser Sullivan has successfully managed both the CLO assets and the non-CLO assets.

An important component of the Fraser Sullivan asset management agreement is that Fraser Sullivan has agreed to employ tem members of the team that currently is managing the commercial loan portfolio on behalf of LAMCO. As set forth in Mr. Lambert's declaration, the debtors believe that continuity of the team managing the commercial loan portfolio will preserve the value of the portfolio. The three senior members of the asset management team have already entered into employment agreements with Fraser Sullivan that are contingent upon the effective date occurring.

Fraser Sullivan has further agreed not to terminate more than one of the senior managers for two years after the effective date. With respect within the other seven employees, Fraser Sullivan has agreed to employ them through at least December 31, 2011. The debtors will pay the employees who are moving to Fraser Sullivan all compensation and benefits for the period prior to the effective date including a prorated portion of their 2011 bonus.

IN order to ensure that the transistor of the

employees is as seamless as possible, the debtors have also agreed that the employees shall retain the severance benefit that they have under their current letter agreements if they are terminated by Fraser Sullivan prior to the first anniversary of the effective date of the asset management agreement. With respect to the three senior managers, the debtors' obligation to pay sever -- is to pay severance if they are terminated within twenty-four months of the effective date. For most employees, the severance benefit is equal to six months at their last monthly base pay rate. There's no incremental cost to the debtors as a result of the severance arrangement, because if such employees were terminated now, LAMCO would owe them the six month benefit. By transitioning them to Fraser Sullivan, the debtors may actually reduce their cost because they may turn out to be long term Fraser Sullivan employees in which case the debtors will not have to pay the severance at all.

The asset management agreement also provides for LAMCO and Fraser Sullivan to enter into a transition services agreement, the form of which is attached as Schedule 1 to the asset management agreement. LAMCO will provide certain services to Fraser Sullivan regarding to record keeping, office space, information technology and the like on a cost plus ten percent basis.

With respect to termination, the debtors have the

right to terminate the asset management agreement with respect to non-CLO assets at any time for good reason and if other than for good reason, by six months' prior written notice to Fraser Sullivan. While there are somewhat complicated provisions regarding the rights of parties in the event of termination, for today's purposes I'll simplify and say that if termination is not for a good reason then the debtors are obligated to pay a fee in the amount of the lesser of seven million dollars and the remainder amount. The remainder amount is basically the amount remaining to be paid over the term of the agreement if the termination occurs prior to the first anniversary; the dollar threshold decreases to five million dollars if termination occurs prior to the second anniversary and three million dollars if termination occurs prior to the third anniversary.

After the third anniversary of the effective date there is no termination fee due at all. In addition, if the effective date does not occur by December 31, 2011, either party can terminate the agreement without penalty. The expectation is that the CLO issuer will enter into a new asset management agreement with Fraser Sullivan as to assets that are sold to the CLOs and that agreement may or may not have comparable termination provisions.

One of the criteria that the debtors felt was key in looking for an asset manager was the willingness of the manager

to provide the debtors with some oversight over the management of the portfolio because the debtors are fiduciary for creditors and they didn't want to abdicate all control to the asset manager.

Schedule D to the asset management agreement sets forth a list of governance protocols for the non-CLO or managed assets. The issue is somewhat different for the CLO assets and the authority granted to the asset manager is and must be greater. However, Annex 1 to Schedule C provides for a limited involvement of the estate with respect to certain decisions, even with respect to the CLO assets.

Another issue that was very important to the debtors, again because of their role as fiduciaries, was that Frasier Sullivan provide the debtors with extensive and, to a certain extent, customized reporting with respect to the managed assets. Frasier Sullivan has also agreed to meet with the debtors, at least quarterly, and to be available on a reasonable basis for additional meetings at the debtors' request.

The debtors felt that commencing a public auction process for this transaction could have adverse consequences, both because of the demoralizing effect it might have on the LAMCO employees who are managing the commercial loan portfolio, and because of the negative consequences that might result if it were known in the debt market that the portfolio was in

play.

As a result, the debtors opted to pursue a private sale and to work with Lazard to ensure that they tested the market to be sure that the transaction provided the most favorable terms available. The debtors embarked on a process that lasted several months and that is described in great detail in the motion beginning at page 16, as well as in the Dakota declaration.

Since filing the motion another potential asset manager did contact the debtors and the debtors engaged in a similar process on an accelerated timetable to that which had been engaged in with respect to the other potential asset managers. At the conclusion of the process the debtors determined that the transaction proposed by Fraser Sullivan provided the highest and best terms available to the debtors.

Although we submitted a form of proposed order with the motion, the debtors and Fraser Sullivan have agreed to a modified form of the order, I have a blackline version for the Court that I'd like to hand up.

THE COURT: Please do. Thank you.

MS. MARCUS: The only change is on page 2 of the blackline, in the fifth decretal paragraph. The change is intended to make it clear that the debtors are not the only entities that are transferring loans to the CLO issuers.

For the reasons set forth in the motion and the

declarations filed in support thereof, Your Honor, the debtors believe that the transactions provided in the asset management agreement, including the creation of the CLOs contemplated therein, is in the best interest of the debtors and their creditors and requests that the Court approve the asset management agreement. I'd be happy to answer any questions that you may have.

THE COURT: I do have a few questions about this and I appreciate your presentation this morning, which recognizes that even though this is unopposed this involves substantial assets of the debtors' estate and requires careful scrutiny as a result.

One of the things that concerned me when I read the papers is that this is apparently not the least expensive alternative available to the debtors, although the degree to which it is more expensive than other choices is not clear from the papers. I'd like to know what we're talking about in terms of real dollars in terms of management costs.

I'm also somewhat concerned about the role that continuity of management played in the decision to choose Fraser Sullivan. Embedded in the motion papers and supporting documents is the notion that protecting the interests of the LAMCO employees represented an aspect of the negotiations, I'd like some assurance that this did not represent an issue that impacted the debtors' position adversely and that those who

negotiated the transaction did so at arms length and without regard to any benefits to insiders. I'm particularly interested in knowing who performed the negotiations and whether any of the parties who were engaged in the negotiations were also benefitted by the transition of insider employees from LAMCO to Fraser Sullivan under this arrangement.

I also have a lingering question in my mind about what this means to LAMCO. Some time ago I approved a motion that led to the creation of LAMCO as a captive asset manager within the Lehman organization and representations were made at that time that LAMCO would provide asset management services within the Lehman family but might also be a source of potential growth and income for Lehman and its creditors by acquiring assets from third parties. What does it mean to LAMCO that certain employees, who presumably have a lot of knowledge and sophistication with respect to loan administration, are transitioning to Fraser Sullivan? Is that adverse, in any respect, to the ongoing operations of LAMCO.

And related to that question is the question why these loans aren't being managed by LAMCO and instead being managed by a third party. I understand that LAMCO may not have the internal resources and expertise to structure CLO transactions but this is a turnkey operation in which all the loans, it appeared to me, are being transferred to Fraser Sullivan, those suitable for CLO treatment and those that are to retain their

hold on status.

So those are questions that occurred to me as I was reviewing the papers and I would be interested in answers to the extent you can remember what I said.

MS. MARCUS: I wrote it down. I can -- let's start with the easy one, the one that perhaps was of concern but that I can answer easily, the issue of the continuity of management and the involvement of the employees that are moving over.

With respect to the involvement of the employees who are moving over, what we did was initially they were involved in finding the first -- the motion refers to two firms with which the initial discussions took place and I think it's fair to say that they were the ones who found Fraser Sullivan, as well as the other firm. And they were involved in preliminary, very preliminary, discussions with them at that point. It was apparent to everybody that the -- I'll call it "conflict of interest" would be an issue and therefore Alvarez & Marsal, who's very involved in the process, not at the early stages but once things started to move forward and Tom Baldasare, of Alvarez & Marsal who's not in court today, was basically designated as the person who would be the primary negotiator, the primary contact for us on this issue.

So what we did was with respect to the negotiations with Fraser Sullivan; the term sheets, the agreements, the senior managers and the people at LAMCO who will be moving over

were not involved in those at all. They were kept apprised of, generally, where we were in the process but they did not participate in reviewing drafts or in negotiating with Fraser Sullivan, all that was done through Alvarez & Marsal.

When we moved over to the Lazard process where Lazard was identifying potential other asset managers who could be approached and engaging in negotiations or in the process, there was some involvement of those senior managers because they're the ones who are the most familiar with the commercial loan portfolio. So, for example, when we had our six -- I'll call them our six finalists, they had an initial meeting with both representatives of Alvarez & Marsal as well as those three senior managers because they needed to know about the -- the information about the portfolio and they were also looking to see whether they would be prepared to hire them.

However, when the competing proposals were submitted to Lazard, the senior managers never saw those competing proposals, they were never apprised of the terms of those competing proposals and they did not participate in the termination that the Fraser Sullivan proposal was the highest and best offer, in fact that was -- that process was spearheaded by Lazard and A&M with our involvement as well. But those senior managers did not participate in that decision making at all.

THE COURT: Who made the selection?

MS. MARCUS: The ultimate selection?

THE COURT: Yes. Whose business judgment are we talking about here?

MS. MARCUS: We are talking about Mr. Lambert's business judgment and if you'd like we can put him on the stand, together with his partners Mr. Baldasare and Jeffrey Salb, also of Alvarez & Marsal.

THE COURT: Okay.

MS. MARCUS: In addition, Your Honor, I failed to mention that the creditors' committee's professionals were also involved in that process, so initially when we had our list of people that we were going out to, we ran that by Houlihan and then at the end of the process, when we had our six proposals to compare to Fraser Sullivan, Houlihan and Milbank, to a lesser extent, were involved in that. And then finally when this other firm showed up, last week I guess, Houlihan and Milbank were involved in that process as well.

THE COURT: Okay. I don't think I need to hear from Mr. Lambert. I read his declaration and I can see him in the front row so if I have any questions that occur to me later I may actually call on him. But right now I don't have a need to hear, generally in reference to some of my concerns.

I think what I'm most interested in knowing, and I don't mean to supersede any of the questions that were previously asked but not yet answered, is why is this a good

deal now?

MS. MARCUS: And now is a relative term because of the market events over the last couple of weeks. But, the reason that this is a good deal now is because recently the CLO market has been opening up again and deals, after a period of relative drought, deals have been starting to get done again. It's a good deal now because we're at the stage where confirmation of a plan is actually in the not-too-distant future, we hope. And we are trying to generate cash in order to make the distributions to creditors greater then they might otherwise would be if we waited for the portfolio to mature over time, although we expect most of the loans will be paid in full, it's a three to five year horizon for those payments to be made.

The other reason is that, and the motion -- the question that you asked about cost is really a hard question that we spent a lot of time agonizing over. It's hard to take a position as to -- originally, I think, we thought that the cost would be lower by going this route. But it turns out because of certain expenses of the estates that get allocated over whatever assets are there, it's not such an easy question and our final conclusion is that initially, in the early years, the cost may be a bit higher by going this route, as opposed to continuing to leave the portfolio in house.

However, the advantage of doing the transaction now is that Fraser Sullivan will be paid a fee based on assets of

their management and the portfolio will be declining over time. So in the motion, what we assumed for the first -- the first full year, the 2012 year, excuse me, is that Fraser Sullivan's fee will be nine million dollars. The next year after that we expect it to go down to eight million and presumably in the following year it would be decreased further.

The advantage, from the estate's point of view, is that by paying Fraser Sullivan a fee based on assets under management we don't have to retain the whole infrastructure that the debtors currently have running this portfolio, so that our fixed costs become variable costs and hopefully in the long run the costs will decrease.

But in addition to the actual costs a very important factor, and I think it's alluded to in Mr. Lambert's declaration, is the concern that as the portfolio decreases in size, if we had kept it in-house the people managing the portfolio would be leaving over time and one by one they'd be leaving for other opportunities, partly because when the portfolio shrinks we wouldn't be able to compensate them in a manner that would be commensurate with what they could get at other firms, perhaps. And the concern was after, let's say, three years when the portfolio is still a billion dollars, a huge amount of money, that we would be in a position where we couldn't effectively manage the portfolio and we would either -- we would probably have to sell it at that point,

perhaps at some large discount.

And so it's this idea of maximizing the value of the tail (sic), that's the real justification for doing the transaction now.

THE COURT: And what does this transaction mean to the future of LAMCO, if anything?

MS. MARCUS: Can I have one second, Your Honor, to consult with Mr. Perez?

THE COURT: Sure.

(Pause)

MS. MARCUS: Your Honor, I think it's fair to say that it -- we don't think it impacts the future of LAMCO. Obviously their commercial loan portfolio management people won't be there anymore, so that wouldn't be part of its business going forward. But when the new board takes over it will determine what the future of LAMCO is. I'm not sure I can say more about that.

Mr. Lambert says he's testified from the podium before so --

THE COURT: Mr. Lambert, if you are able to answer the question about what's going on with LAMCO and how this impacts LAMCO, I'd be interested and if you'd come to the podium instead of the witness stand you're just as much in trouble if you tell me the wrong thing.

MR. LAMBERT: Good morning, Your Honor. Doug Lambert

with Alvarez & Marsal on behalf of the estate.

As you know, the Court approved, in May 2010, the formation of LAMCO and, I think, both the estate and the creditors had reasonable expectation at the time of the formation of LAMCO that there would be opportunities for third party mandates in the marketplace to manage the liquidation of otherwise illiquid, long-lived (ph.) assets.

We certainly found opportunities. We did go to market offering the services of LAMCO and, I think, that we demonstrated a bona fides. I think the concern of the parties that we spoke to related to the fact that they would be entering into long-term arrangements with a debtor estate, even though LAMCO was not a debtor itself. And there were concerned that, you know, either at confirmation of a plan or at some other point decisions could be taken to discontinue the operation of LAMCO.

With that in mind, with the help of Lazard, we had actually run a fairly robust process last year to try to find a joint venture partner that could provide long-term stability to the LAMCO platform and particularly provide some comfort to third parties.

By the beginning of this year we actually felt that we had identified a party that was a viable -- a viable joint-venture partner and by that point I think the creditors felt we were very close to, hopefully this year, having a confirmable

plan. They were concerned that bringing on another or a multiple-asset portfolios at a time that we were trying to move towards a confirmation of the plan could be a distraction towards the debtor and non-debtors' assets. So we basically, probably, at the end of the first quarter, the beginning of the second quarter, had put on hold at least until, perhaps, post-confirmation.

To specifically answer your question, we had commenced this process in the fourth quarter of last year when we were in active negotiations with the third party to begin the joint venture process. Certainly as it relates to the technology infrastructure platform that the estate built, with respect to the loans, that still remains and could be reactivated, albeit with new people. But again, because of the uncertainty of whether or not ultimately, you know, the estate would move forward with any third-party mandates, we felt that either way that this transaction and moving forward with this asset management agreement, which positions the assets to be much more quickly taken to market then if we otherwise tried to do that, you know, maintaining the asset team in place.

So I think I've rambled a lot and I'm not sure I've specifically answered your question.

THE COURT: I think you mostly have but you've also prompted a couple of other questions.

MR. LAMBERT: Sure.

THE COURT: One is, what happens to that infrastructure that you described, that technology, that, I presume, software associated with the management of the commercial loan portfolio, is that being licensed to Fraser Sullivan? Is it to be used by Fraser Sullivan? What happens to it?

MR. LAMBERT: No, it is not, Your Honor. Fraser Sullivan has their own technology platform that the assets will migrate to. And I think that was part of, and why we ultimately described the motion in part as not being fully cost savings because we debated heavily what portion of the -- of the existing infrastructure should be allocated to this and we -- we took the position of allocating, you know, material costs they think, for purposes of this analysis because we didn't want to appear before the court describing this as a significant cost savings to the estate because arguably there are certain embedded fixed costs that will still remain.

Now, arguably, we believe that those costs will come down dramatically once we migrate off of the platform. But without the absolute certainty of that, you know, and it being subject to future events, including negotiations with the third party that provides the technology platform that we utilize, we erred on the side of conservatism and assumed that costs would remain the same. I don't believe that that's going to be the case but we didn't want to mislead the Court or the creditors

as to what the potential costs of the transaction might ultimately be.

THE COURT: Am I correct in concluding from those remarks and from some of the other statements made by Ms. Marcus, that it is very difficult to actually quantify what the incremental expense to the estate will be in having Fraser Sullivan manage these assets?

MR. LAMBERT: I think from -- as it relates to the legacy costs, clearly the initial analysis of this was a significantly more favorable cost analysis to the estate. But again, in the interest of fairness, as it relates to existing fixed costs, that we believe, you know, will go away but without the certainty today, we added those back. And they were, you know, significant numbers which, again, I don't think will ultimately materialize. And under that scenario it, sort of, comes more to a break even push analysis to, you know, slightly more. But again, I don't believe that that's a realistic outcome but it is certainly, by far, the most conservative we could construct.

THE COURT: Okay. I have two more questions.

MR. LAMBERT: Sure.

THE COURT: First, I presume, as a result of this transaction, that substantially all of the LAMCO personnel, if not all, who are currently involved in the management of the commercial loan portfolio, will no longer be employed by LAMCO

and will be employed by Fraser Sullivan.

MR. LAMBERT: That's correct.

THE COURT: Does that effectively mean that for ongoing purposes LAMCO has exited the commercial loan asset management segment of the market and will not be doing that work unless a business decision is made in the future to, in effect, rehire these people or hire new people.

MR. LAMBERT: I would probably categorize it as letting that capability, that function, go dormant. But again, as I said, the technology, you know, platform still exists. And again, you know, if the Court will recall the loan team, together with all of the other asset management teams that now make up the LAMCO organization, were recreated, you know, post-filing. So between Jeff Salb, one of my partners, who spent his entire career at Chase and JPMorgan, this was one of the specific teams that he and I had, you know, built. We had hand-selected this team and, I think, with the knowledge of, you know, almost now three years experience, I think that, you know, we feel that if the estate so chose to move forward with third-party mandates with the technology and experience, we could rebuild the platform fairly quickly, as we did, you know, in the early days immediately following the estate's bankruptcy.

THE COURT: Okay. Final question.

MR. LAMBERT: Yes, sir.

THE COURT: I've read your declaration and I've heard your remarks and I've heard you testify in other settings in this case. In your opinion why is this a good transaction for the estate now?

MR. LAMBERT: Sure. Again, it gives us the most optionality and flexibility. And by that we did see this year the CLO market, you know, begin to pick up. You know, truthfully Your Honor, you know, the question, you know, has been does the estate need more cash on its balance sheet, you know, pre-consummation of the plan?

This gives us the ability to be -- assuming that, you know, the disclosure hearing goes well later this month and we can move forward with the confirmation, the ability to move quickly into the market to begin to execute CLO structures and generate additional liquidity that we could, potentially, time to an initial distribution under, you know, the plan, we think it makes a lot of sense.

The other point I'd like to make is that, you know, directionally thirty percent of the portfolio today is managed out of our operation in the U.K. And it was becoming increasingly obvious to my partners and I that that team that we had in place was most at risk to flight. In the event that we did lose one or more people, particularly once the decision was taken not to proceed with taking on third-party mandates which, quite honestly, Your Honor, most of the mandates that we

had bid upon were in Europe and there was a reasonable expectation that that team would, you know, expand. Our concern was that that team was a retention risk and if they did leave managing probably directly thirty percent of the portfolio today, we felt it truly did put, you know, the debtor and non-debtor entities that held those positions at risk.

So again, for those reasons we thought the optionality, the continuity of management. The other thing that I would mention is, over the three years we've had a very successful process developed of protocols, working with the advisors to the committee and the committee itself and it's been incredibly efficient and we wanted to ensure that we could preserve those protocols and process and, again, facilitate on a post-confirmation a very smooth transition and handoff.

Plus, we did take comments from the ad hocs late last year, you know, asking us to consider financing structures which, in fact, we were already working on at the time that they had raised those concerns or suggestions.

THE COURT: Okay. Thank you.

MR. LAMBERT: Thank you.

MS. MARCUS: Your Honor, I just had to clarify one answer that Mr. Lambert gave you to one of your questions. You had asked whether substantially all of the LAMCO employees managing the commercial loan portfolio are moving over, they're actually not. Ten are moving over and I believe there are

twenty-three others and most of those, I believe, will be terminated. A few will be kept on to assist the estate with the oversight function.

THE COURT: Okay. So, effectively, personnel committed to this function are all leaving LAMCO one way or the other.

MS. MARCUS: Correct.

MR. LAMBERT: That's how I answered the question, Your Honor.

THE COURT: Okay. Understood.

MS. MARCUS: Your Honor, as to your other questions I think we've touched on all of them already.

THE COURT: Either we have or I've forgotten the questions. So there's no need to conjure them up. I think I'm satisfied, based upon your answers and Mr. Lambert's informal testimony. But I'm going to give anybody who wishes to comment on this important motion a chance to be heard now.

MR. FLECK: Good morning, Your Honor. Evan Fleck of Milbank Tweed on behalf of the official committee.

As Your Honor noted, the official committee of unsecured creditors supports the relief requested in the motion. I think Your Honor noted the filing of our statement in support on the docket; I'm not going to belabor the points that are raised in there. But I did, because of the importance of the motion, want to highlight a few points for the Court and

also be available for any questions with respect to the committee's analysis of the transaction that's before the Court.

Because the committee believes that it is in the best interest of the creditors of the estate to enter into the AMA and that the transactions contemplated way back, when we started the discussions initially. Our time has been consumed by looking at the documents, reviewing the documents and also addressing the specific concerns that the committee had and some of which were raised by the Court in colloquy this morning. We highlighted in our statement five particular issues that were the focus of our attention during our inquiry. These are the big items although there were, of course, other issues that came up in connection with review and comment on the AMA that the TSA and related documentation. Those five issues were answered to the committee's satisfaction and dealt with in the documentation and in our discussions in such a way that we are enthusiastically supportive of the transaction.

I just wanted to touch upon them, with the Court's permission, at this time. The first was whether the transactions that are contemplated will maximize value and are consistent with the mandate of the creditors' committee and the objectives under the plan, we believe they are and I don't think I need to reiterate the points that were raised, particularly by Mr. Lambert, this morning because all of those

points resonate with the creditors' committee. We believe that having the CLO proceeds come into the estate, also the potential upside from those assets as well as the cost structure and the value brought to management of the non-CLO assets will -- are all consistent with and advance the goals of the creditor's committee and the creditors who are -- the constituency of the creditors' committee.

The costs were also a particular focus and it was difficult to, although we anticipated the Court's questions and also anticipated questions from creditors on those issues, it was difficult to put into writing how we became satisfied that the cost structure here is appropriate. And the structure that's reflected in the final AMA does reflect, to some extent, negotiations in which the creditors' committee participated, as Ms. Marcus noted, Houlihan Lokey, the financial advisor of the committee, participated actively in those discussions. We believe the management fee structure is appropriate, also the way the termination fee is structured is also appropriate and allows, as an overall guiding principle, allows for the post-effective date board of directors of both LBHI and all of the boards that control the assets that are going into the CLO, maximum flexibility in terms of their interaction with Fraser Sullivan.

The success fee was mentioned on the record this morning, it was also mentioned in our papers, it's not a cause

of objection on our part, we did think it was appropriate to note it. The most significant part of the success fee and why it's acceptable, although not necessary in our -- in the committee's view, was that it is in the sole discretion of the post-effective date board and it's capped at five million dollars. So it doesn't, ultimately, cause concern such that we're not supportive of the transaction and on the whole we are supportive of the cost structure, as I noted, particularly in light of alternatives that were available.

Speaking of the alternatives, and I think particularly -- well, again, as we noted in our papers the committee would support an open, robust process, we've talked about that this morning in connection with the Rosslyn transaction, I think this transaction is different for many reasons. But in order for the committee to be supportive of not having an auction process before the Court, or some sort of process to identify the asset manager, we had to be comfortable that the process in which the debtors were engaged was robust and appropriate. We believe it was, particularly with the involvement of Lazard and Houlihan having direct access to the information that was provided to the debtors, subject to certain confidentiality restrictions, so that we were able to evaluate the process of identifying other managers and also the debtors' process in evaluating the information that they received.

We're very comfortable that Fraser Sullivan has the expertise that's required to manage the portfolio. I did want to touch upon one point the Court raised with respect to the employees. We recognized that it was a very important point for the debtors that there be continuity of management. That the -- particularly because of the expertise that has been developed over the course of these cases with respect to the credits that are in this portfolio. It was clear from A&M's perspective, from the debtors' perspective, that there should be continuity, that the managers should have the benefit of the experience that's been developed in the employees of the estate over the course of these cases. We recognize that and we agreed with the debtors' judgment on that point. However, it was extremely important from the committee's perspective that that goal of maintaining that continuity did not interfere with getting the best deal for the estate.

So to put it more clearly, we were extremely focused on the terms and details of the management contracts for the employees that were coming on board to Fraser Sullivan and in fact, with respect to the three most senior managers for whom the arrangements have already been finalized, the creditors' committee's advisors reviewed those contracts and the terms and we've determined that they are appropriate under the circumstances of this case, that they were negotiated at arms length and that there is not any -- that the -- what prompted

the Court's concerns and questions earlier are not issues that raise any further issues. We've diligenced them and are comfortable and are satisfied that the terms are appropriate and, as I said, were negotiated at arms length.

Finally, Your Honor, with respect to oversight, the continuing theme in our review of this transaction was that through the effective date of the plan all of the protocols that this Court has approved and that have been developed between the debtors and the creditors' committee will continue to apply. That was, I think, for obvious reasons but that while we thought that putting this structure in place at this time is in the best interest of the estates, it still remains important and indeed critical that there be a direct, real-time oversight of the affairs of the loan portfolio and decisions that are made with respect to the portfolio. And therefore, while the AMA speaks to the relationship between Fraser Sullivan and the debtors and when Fraser Sullivan may need to go to the debtors for consultation, reporting or consent, all of the arrangements that have been in place and have worked successfully during the course of these cases, will remain in place through the effective date of the plan, vis-a-vis the debtors and the creditors' committee and also on a post-effective date basis we're comfortable that the board -- the boards of directors will have the ability to make decisions, as appropriate, with respect to this portfolio.

Your Honor, during the course of our interaction with the debtors in evaluating this transaction, it was not appropriate for us to speak to our creditor constituency about the transactions because of the confidentiality and some of the reasons that were discussed earlier with respect to potential impact on employees that were overseeing the portfolio. The committee felt comfortable based upon prior discussions and continuing discussions with creditors that this would be putting this in place now would be consistent with what creditors were looking for in terms of maximizing the value of the assets and preparing for the post-effective date period. I'm pleased to report to the Court that immediately upon the filing of the motion, the creditors' committee members and advisors received very positive feedback from creditors large and small in connection with the motion. There were a number of questions asked as there usually are. But we were pleased that the response was overwhelmingly positive both with respect to cost structure and the overall in connection with the motion.

THE COURT: Okay. Thank you.

MR. FLECK: Thank you.

THE COURT: Mr. Sabin?

MR. SABIN: Good morning, Your Honor. Jeffrey Sabin of Bingham McCutchen on behalf of Fraser Management Investment LLC. I'd like to introduce to -- sitting in the front row,

John Fraser, who is co-founder and chief investment advisor. So if you have any questions regarding statements that may have been attributed to him in the motion, he is certainly here to answer those. And in addition, I want to highlight a few things that may be responsive to some of the questions that you mentioned and otherwise have not been highlighted as yet.

THE COURT: Okay.

MR. SABIN: Most importantly, Your Honor, assuming the business judgment that you've heard testimony to regarding generating cash now as opposed to holding on to the loan and clipping the coupons, if you will, and collecting what you could, there are provisions inside the asset management agreement that require, among other things, the commercial reasonable efforts of Fraser Sullivan subject to market conditions to execute at least the first of CLO, if you will, or CLOs aggregating 500 million of face amount of these loans within 180 days after the effective date of this transaction and an obligation to do another 500 million in CLOs within the first anniversary. So those are provisions that otherwise give effect to the business judgments that were made and were negotiated at arm's length.

In addition, Your Honor, the order itself -- and I call your attention now to page 2 to the fourth, fifth and decretal paragraphs. And the whole transaction contemplates that there will be a decision after the effective date after,

if you will, Fraser Sullivan and their personnel get their arms around these assets themselves as to which assets are able to get to a sale or structure to generate the cash that is estimated and which are left behind. And in connection with that decision, this Court is being asked today to, in essence, bless those sales by the debtors in the future into the CLOs under Section 363 and to bless those as true sales. And I just wanted to point that out since I haven't heard it yet on the record. But I know it's in the motion and I know the papers have been read. But I think it's important to note that we're looking for good faith findings and we're looking for a finding that effectively says those future sales which, as you've heard from both the debtor and the committee, are subject to, in essence, the sole discretion of the debtors subject to the protocols with the committee will be made if, and only if, those debtors and/or their successors under any plan decide that they go forward.

THE COURT: I have to break in and ask you a question because it caught me by surprise when you said it. Are you telling me that this order constitutes a prior determination that future transactions with third parties relating to the creation of CLO structures will be deemed to be true sales by virtue of this order?

MR. SABIN: Yes, Your Honor.

THE COURT: I'm not entering that order. I do not do

what lawyers need to do when they create true sale opinions. And I am not now determining that anything is a true sale other than the transfer from land co to Fraser Sullivan of assets for management. What happens between Fraser Sullivan's management and any third party is a matter that I am now not blessing. If that's a problem, we can all go home.

MS. MARCUS: May I respond, Your Honor?

THE COURT: Sure.

MS. MARCUS: The transfer of the assets from the debtors to Fraser Sullivan isn't really a transfer. It's just a management agreement.

THE COURT: I understand.

MS. MARCUS: Okay. I just want to make sure that we're talking about the same thing. And then ultimately, when Fraser Sullivan structures the CLOs, at that point there would be a transfer by the debtor and other debtor-controlled affiliates to the CLOs. That's when the transfer happens. And I just want to -- I want to make sure that we're on the same page in terms of what's happening.

The true sale finding is in -- it's actually referenced in the motion and the order. If the Court would be more comfortable, I have a proffer of testimony of Mr. Lambert as to what the terms of those transfers will be. I recognize that there is no transaction before you today.

THE COURT: I can't approve a hypothetical transaction

and I'm not going to. I don't know the structure, the transaction, that may be entered into between the debtor and some third party that is administered by Fraser Sullivan. I don't know what retained interest, if any, may exist with respect to that transaction. I can't give a blanket, in effect, blessing of true sale when I don't know what the transaction is. And I'm not doing it.

MS. MARCUS: Okay. I understand that, Your Honor. But there are two elements. There's a true sale element and, subject to Fraser Sullivan determination that the order will be acceptable -- and we can break and talk about that for a minute. But the other thing that we are asking you to approve is that the debtors are authorized to transfer the loans once Fraser Sullivan sets up the CLO structures. And the reason that that's very important, again, it's somewhat hypothetical but the reason it's very important is because of the way these things are created and marketed. We can't -- and my understanding is that Fraser Sullivan and the underwriter and the arranger can't go out and create and market a CLO and then give us the time to come back to court to approve a particular sale of loan.

THE COURT: I understand. I think those are different considerations. I'm perfectly prepared to give the debtor the authority to, in effect, transfer as part of the creation of the CLO assets that are under management pursuant to this

arrangement and for that to happen in the future without having to come back to court. But I am not doing the work of a transactional lawyer who would determine that that particular transaction, as structured, constitutes a true sale. And everybody in this room knows that I wouldn't ever do that. No bankruptcy judge in his right mind would ever do that. That's what you lawyers are all paid so much to do. You're looking at a particular transaction that's structured in a particular way and making a judgment as to whether or not it constitutes a true sale. There are teams of lawyers in transactional law firms that spend a lot of time considering whether or not a particular transaction, as structured, is a true sale. Since there are no structures before the Court, there can be no blessing in advance that a structure that doesn't presently exist constitutes a true sale. It's as simple as that.

MS. MARCUS: I understand, Your Honor. I don't know if this is the right time or if you want to wait till --

THE COURT: We can take a break, if you want, to talk about whether or not this is a deal-breaker. It had better not be.

MS. MARCUS: We need a break, Your Honor.

THE COURT: Fine. Let's take a break although let's see if we can deal with the uncontested matter from SIPA first so we don't have them waiting while others talk in the hallway.

MR. SABIN: Thank you, Your Honor.

MR. BRUNDIGE: Thank you, Your Honor. My name is Bob Brundige. Our firm, as you know, Hughes, Hubbard & Reed, represents the trustee of LBI. And we're here this morning on an uncontested 9019 motion to approve complimentary settlement agreements that the trustee has reached with Bank Leumi and Israel Discount Bank which I'll refer to as IDB. Under the settlement, the estate will receive approximately eighty-two million dollars in the several weeks and a possibility of receiving another 2.9 million dollars down the road.

After many, many months of negotiation and reconciliation and document exchange, the trustee has achieved this settlement for the estate and its customers in which it is receiving nearly everything it had requested in its original contempt motion against these two banks filed many months ago.

The Leumi settlement provides that Bank Leumi, within ten days of the entry of an order approving the sale, will seek and obtain from the Israeli court a lifting of an attachment that it had obtained restraining, in effect, and attaching all property of LBI at IDB in Israel.

At the same time, under the IDB settlement, it is provided that within five days of the lifting of that stay, IDB will send back the proceeds that it's been holding, sell securities that it's been holding and send back those proceeds to the estate so that the estate will then realize everything that it had there with the exception of 2.9 million dollars.

What that exception is, is that just recently IDB brought to our attention that there was a bond transaction on which they're not sure of who the obligor is on that transaction and queried whether it might be LBI. Rather than delay the settlement, what we agreed to do is that this 2.9 million dollars would be sent to Seward & Kissel, IDB's counsel here in New York to be held in an interest bearing escrow account while the parties try to act in good faith and resolve whether there is an obligation on the part of LBI to IDB with respect to the bond transaction. Assuming there is not, that will be paid to the estate as well.

Upon fulfillment of the obligations by Bank Leumi and IDB, the trustee has agreed that it will withdraw its contempt motion against both banks. And basically, then under the settlement agreement with them, the trustee has determined with the consultation of its professionals that it is fair and equitable and in the best interest of the estate and request Your Honor to approve the settlement agreements.

THE COURT: I am prepared to do that. Is there anyone here who wishes to be heard with respect to this representing either Bank Leumi or Israel Discount Bank?

MR. BRUNDIGE: No. And I think --

THE COURT: There's no response. I've reviewed the papers. It seems like it's a good transaction for the trustee and I approve it.

MR. BRUNDIGE: Thank you, Your Honor.

THE COURT: I just need a form of order.

Let's take a break. The question is how long the break needs to be.

MS. MARCUS: Fifteen minutes, Your Honor.

THE COURT: Let's take a twenty minute break.

MR. SABIN: Thank you, Your Honor.

THE COURT: Let's take a twenty minute break with provisional resumption at twenty minutes to the hour.

(Recess from 11:23 a.m. until 11:44 a.m.)

THE COURT: Be seated, please.

MS. MARCUS: Jacquelyn Marcus again, Your Honor. We have had an opportunity during the break to consult with counsel for Fraser Sullivan as well as the creditors' committee. And Fraser Sullivan has agreed to the following changes as have the debtors and the committee. Do you have a copy of the order handy still?

THE COURT: I do.

MS. MARCUS: The first decretal paragraph where it says the motion is granted, we'll change it to provide -- to the extent provided herein. And then three paragraphs down, the paragraphs that reads, "ORDERED, that to the extent the Debtors" or contemplated transferors, et cetera, sell loans, they'll be considered true sales, we're going to strike that paragraph.

THE COURT: Okay.

MS. MARCUS: Your Honor, we're going to do this the normal way and the attorneys will provide opinions. In the event that, at a later time, when there's a transaction that's fully negotiated and documented, if we need more, we may have to come back to the Court. And since these transactions are likely to be time sensitive, we may have to ask for expedited relief if we need something more from you at that time.

THE COURT: Okay. Fine. I mean, my hope is that this will simply be ordinary course transactional practice for the creation of a CLO and that bankruptcy court orders are typically not part of such transactions. And with the strength of this order and competent counsel for the issuer, I don't think we should have a problem. But if there's a need for relief, you can always find me.

MS. MARCUS: Thank you, Your Honor. We'll send down a revised form of this order later this afternoon.

THE COURT: Okay.

MS. MARCUS: I believe that --

THE COURT: I think --

MS. MARCUS: -- concludes our --

THE COURT: I think that concludes the morning agenda. There's a 2:00 calendar. We're adjourned until then.

MS. MARCUS: Thank you.

(Whereupon these proceedings were concluded at 11:46 a.m.)

I N D E X

RULINGS

	Page	Line
Establishment of two creditworthy entities approved	11	4
Motion to sell Rosslyn properties approved	14	22
Settlement agreement approved	19	10
LBI's uncontested 9019 motion to approve complimentary settlement agreements reached by the trustee with Bank Leumi and Israel Discount Bank	56	25

C E R T I F I C A T I O N

I, Sara Davis, certify that the foregoing transcript is a true and accurate record of the proceedings.

Sara Davis

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Date: August 18, 2011